

FILE

FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554  
FEB 06 2014

OFFICE OF  
MANAGING DIRECTOR

Matthew M. McCormick, Esq.  
Davina S. Sashkin  
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1300 North 17<sup>th</sup> Street, 11<sup>th</sup> Floor  
Arlington, VA 22209

Licensee: **Reier Broadcasting Company, Inc.**  
Waiver Request: Financial Hardship; 47 C.F.R. §§  
1.1164(c) & (e), 1.1166(c).  
Stations: KBOZ, KOBZ-FM, KOB, KOB-FM,  
KOZB, K240CO, K265AS, K288ES, and  
Auxiliaries: KB97406, KQB693, WGZ540,  
WHN278, WMG482  
Disposition: Dismissed  
Fees: Fiscal Year (FY) 2013 Regulatory Fees  
Filed: Sep. 20, 2013  
Fee Control No.: RROG-13-00015398  
Payment Amounts: *See Fee Filer and Treasury*

Dear Counsel:

This responds to Licensee's *Request*<sup>1</sup> for waiver and deferment of the required Fiscal Year (FY) 2013 regulatory fees due for Stations KBOZ, KOBZ-FM, KOB, KOB-FM, KOZB, K240CO, K265AS, K288ES, and Auxiliaries KB97406, KQB693, WGZ540, WHN278, WMG482. For the reasons discussed below, we dismiss the *Request* and demand immediate payment of the delinquent amounts<sup>2</sup> plus accrued but unpaid statutory charges of collection.<sup>3</sup>

<sup>1</sup> Letter from Mathew M. McCormick, Esq., and Davina S. Sashkin, Esq., Fletcher, Heald & Hildreth, P.L.C., 1300 North 17<sup>th</sup> Street, Arlington, VA 22209 to FCC, Office of the Managing Director, 445 12<sup>th</sup> St., S.W., Washington, DC 20554 (Sep. 19, 2013) (rec'd Sep. 20, 2013) (*Request*).

<sup>2</sup> Interest and penalties continue to accrue until the full amount is paid, thus to determine the balance, Licensee should review the Commission's fee filer website and contact the Department of Treasury.

<sup>3</sup> See 31 U.S.C. § 3717, 47 C.F.R. § 1.1940.

On May 4, 2012, we denied Licensee's *FY 2011 Request*<sup>4</sup> for waiver and deferment of required FY 2011 regulatory fees, and demanded payment of the fee within 30 days.<sup>5</sup> Our records show that Licensee failed to pay the amount owed for the FY 2011 regulatory fees, and that Licensee is delinquent in paying FY 2010 regulatory fees.<sup>6</sup> Moreover, as required by the law,<sup>7</sup> the Commission transferred the delinquent debt owed for the FY 2011 regulatory fees to the United States Department of the Treasury for collection. Because Licensee is a delinquent debtor, under 47 C.F.R. § 1.1164,<sup>8</sup> we dismiss Licensee's *Request*, and we demand immediate payment of the FY 2013 fees and other delinquent amounts.

Furthermore, we note that Licensee failed to provide any supporting documentation of financial hardship in support of its informal request to defer payment. Instead, Licensee offered, "a negative cash flow ... will be confirmed by forthcoming financial documentation and a declaration from [Licensee's] president."<sup>9</sup> We have no record that Licensee carried through with its offer and commensurate obligation to make a timely filing of such documentation,<sup>10</sup> thus its submission was fatally deficient, and for this additional reason, as set forth at 47 C.F.R. § 1.1166(c),<sup>11</sup> we dismiss.

As to Licensee's delinquency status, in addition to our dismissal of this matter as set forth at 47 C.F.R. § 1.1164, we emphasize that under 47 C.F.R. § 1.1910, we will withhold action on any other pending or filed application until Licensee pays the fee and accrued charges or makes

<sup>4</sup> Letter from Mathew M. McCormick, Esq., and Davina S. Sashkin, Esq., Fletcher, Heald & Hildreth, P.L.C., 1300 North 17<sup>th</sup> Street, Arlington, VA 22209 to FCC, Office of the Managing Director, 445 12<sup>th</sup> St., S.W., Washington, DC 20554 (Sep. 14, 2011) (*FY 2011 Request*).

<sup>5</sup> See Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for Fiscal Year 1994, *Report and Order*, 9 FCC Rcd 5333, 5346, ¶ 35 (1994), *recon. denied*, 10 FCC Rcd 12759 (1995) ("the petitioner will have 30 days to [pay the fee] in order to avoid the assessment of penalty charges and the invocation of any other available remedy. The filing of a petition for reconsideration will not toll this 30-day period.").

<sup>6</sup> See FY 2010 Regulatory Fees Due No Later Than August 31, 2010, Eastern Time, *Public Notice*, DA 10-1451 (Aug. 9, 2010).

<sup>7</sup> See 31 U.S.C. 3711(g); 31 C.F.R. 285.12(c).

<sup>8</sup> 47 C.F.R. §§ 1.1164(c) ("If a regulatory fee is not paid in a timely manner, the regulatee will be notified of its deficiency. This notice will automatically assess a 25 percent penalty, subject the delinquent payor's pending applications to dismissal, and may require a delinquent payor to show cause why its existing instruments of authorization should not be subject to rescission."), 1.1164(e) ("Any pending or subsequently filed application submitted by a party will be dismissed if that party is determined to be delinquent in paying a standard regulatory fee or an installment payment.").

<sup>9</sup> *Request* at 2.

<sup>10</sup> *Bartholdi Cable Co. Inc. v. FCC*, 114 F.3d 274, 280 (D.C. Cir. 1997) (The petitioner has the burden of clarifying its position before the Commission.), Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year, *Memorandum Opinion and Order*, 10 FCC Rcd 12759, 12762, ¶ 13 (1995) ("It will be incumbent upon each regulatee to fully document its financial position and show that it lacks sufficient funds to pay the regulatory fees and to maintain its service to the public."); 47 C.F.R. § 1.65 (An applicant is responsible for the continuing accuracy and completeness of information furnished.).

<sup>11</sup> 47 C.F.R. § 1.1166(c) ("Petitions for waiver of a regulatory fee must be accompanied by the required fee and FCC Form 159. Submitted fees will be returned if a waiver is granted. Waiver requests that do not include the required fees or forms will be dismissed unless accompanied by a petition to defer payment due to financial hardship, supported by documentation of the financial hardship.").



satisfactory arrangements for payment.<sup>12</sup> Licensee must contact the Department of Treasury to resolve the transferred debts. Furthermore, within 30 days of this notice, we will dismiss any pending application. Licensee may not receive an additional notification of the procedures and consequences set forth at 47 C.F.R. § 1.1910.

This letter provides notice that 31 U.S.C. § 3717(e) and 47 C.F.R. § 1.1940 require us to assess (a) collection charges, (b) interest at the Treasury rate when the debt is more than 30 days delinquent, and (c) a penalty of 6% after 90 days. These charges will continue until Licensee pays the debt in full or executes an approved written installment payment plan. Furthermore, under 31 U.S.C. § 3711(g), without further notice, and usually within 180 days or less of delinquency, we transfer delinquent debt to Treasury, which will initiate collection action through private collection activities and assess additional charges. In addition, we may refer the debt to the Department of Justice, which may result in litigation and additional costs. Finally, under 31 U.S.C. § 3716, 31 C.F.R. § 285.5 and 47 C.F.R. § 1.1912, some or all of the debt may be collected by non-centralized or centralized administrative offset. Also, under 31 U.S.C. § 3711(e), this debt and Licensee's payment history will be reported to credit reporting information bureaus. Because we have furnished notice here, Licensee may not receive another notification of this process.

If you have any questions concerning this letter, please contact the Revenue and Receivables Operations Group at (202) 418-1995

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Stephens", is written over a horizontal line.

For: Mark Stephens  
Chief Financial Officer

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<sup>12</sup> 47 C.F.R. § 1.1910(b)(2) ("Action will be withheld on applications, including on a petition for reconsideration or any application for review of a fee determination, or request for authorization by any entity found to be delinquent in its debt to the Commission ....").